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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-ninth session

SUMMARY RECORD OF THE 1159th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 August 1996, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Tenth to thirteenth periodic reports of Brazil (continued) (CERD/C/263/Add.10; HRI/CORE/1/Add.53)

1. At the invitation of the Chairman, the members of the Brazilian delegation resumed their places at the Committee table.

2. Mr. VERGNE SABOIA (Brazil), continuing to provide the details the experts had requested, said that, with regard to the violence against landless peasants and other vulnerable groups, the Government had acted within the Constitution in punishing the guilty parties, and had brought the persons responsible - the officer and the police and military personnel - for the events in Eldorado dos Carajas in the State of Pará before the military courts.

3. With reference to street children, he recalled that a member of the military police had been given the heaviest sentence in the Criminal Code for his share in the Candelaria massacre and that the Human Rights Committee and the Special Rapporteur on extrajudicial, summary or arbitrary executions had been so informed.

4. There were no racist organizations in Brazil. It was true that there were gangs of youths whose behaviour was sometimes racist and isolated separatist groups in the south, but they could not be said to have the support of the population. He pointed out that two persons associated with separatist movements were being prosecuted in Rio Grande do Sul, one for attempting to section off part of the national territory in order to set up an independent State and the other for incitement to racial hatred.

5. In reply to a question on the participation of the churches and society, he said that the churches, and the Roman Catholic Church in particular, were very active in the national debate on racial matters. The three major trade unions, for their part, had black groups who made such issues a matter of special study, and the Bar Association was determined to promote human rights with the help of a special commission of black lawyers.

6. He recognized that the situation of black people on the labour market was not an enviable one. That was because the qualifications of black workers often did not correspond to market requirements, in part because of their very history of enfranchisement and in part because of their lack of technical training. The recently created Inter-Ministerial Working Group was endeavouring, in consultation with the Working Group on the Elimination of Discrimination, to put together preferential measures in employment, taking advantage of the experience gained in other countries.

7. The tables contained in the report showed clearly that the black population was penalized in all areas. However, since race and colour were not taken into account in most of the investigations, the presence of blacks

in the various sectors of society could not be correctly quantified. The Inter-Ministerial Working Group was in the process of rectifying that shortfall. Despite such lacunae, it was well known that black seats in Congress could be counted on the fingers of two hands and that there was just one black minister and one black rector and two black Federal state governors. In the army, however, there were considerable numbers of blacks, except among the higher-ranking officers. The tables also showed the underprivileged situation of blacks in respect of income and education. The data on unemployment, imprisonment rates, prostitution or suicide - all of which were factors of social exclusion - showed that the percentage of blacks and coloureds in those categories corresponded overall to the percentage of the population which they represented.

8. In reply to the question on the publication of information concerning the report, he said that 5,000 copies of the report were being printed. With regard to whether domestic legislation conformed to the Convention, he referred to the documents available in the Centre for Human Rights and asked the Committee to point out any gaps.

9. Referring to the situation of the indigenous populations, he explained that it had been studied separately because those populations were not integrated into Brazilian society overall. The indigenous population, in other words, persons defining themselves as indigenous, numbered approximately 160,000, or 0.2 per cent of the total population; it was therefore difficult to integrate them into general statistics. Two thirds of them lived in the Amazon jungle and a great many had never had any contact with the rest of the population. They were therefore not ready to mingle with non-indigenous groups; they were also vulnerable and should receive special protection. The 1988 Constitution, which recognized their right to cultivate their own particular characteristics, while protecting them under the same heading as other citizens, did not foresee that, in exchange, they would lose their indigenous status and identity. In giving them the legal capacity to enable them to protect their rights and their interests, it had to some extent rescued them from their regime of tutelage, but, when the Federal Government had consulted the indigenous communities in 1991 on the timeliness of modifying its policy towards them, the great majority had said that they were in favour of keeping their protected status, which added special collective cultural, social and land rights to the rights of all Brazilians and in no way affected their political rights, although, to date, there had only been a single indigenous "non-emancipated" Federal deputy.

10. In reply to the question on violence against the indigenous population, he quoted figures for murder and attempted murder and various acts of aggression, including acts against the indigenous heritage, which showed that such acts were most frequently committed by non-indigenous persons. The most alarming figure, however, was that for suicide, particularly among the Guarany-Kaiowa and the Ticuna.

11. Much needed to be done to improve the situation and particularly to raise life expectancy, which was only 46 years. However, measurable progress had been made and the overall growth of the indigenous population, now approximately 1.7 per cent, was greater than that of the rest of the

population of Brazil. The development of the Yanomamis in northern Brazil clearly illustrated that trend. With assistance from the National Indian Foundation (FUNAI) and five NGOs, the Yanomamis had their own medical centres distributed throughout their territory. The death rate, particularly the infant death rate, and the prevalence of malaria had decreased and the population was growing at a rate of 3.7 per cent, or approximately double the national average.

12. Noting that the Committee had taken a very close interest in the question of indigenous lands, he said that they accounted for 11 per cent of the territory of the Federation. The land had been demarcated to take the rights of its original populations into account and must ensure the survival of its inhabitants in a collective context. However, the land earmarked for them belonged to the Federation, which had to make considerable efforts to protect it, since it was and would continue to be a target for invasion; the situation would improve only when other social problems, particularly agrarian reform, had been solved.

13. He reminded the Committee that he had already discussed the question of the health of the indigenous populations and added that the health system from which those populations benefited took their special way of life into account.

14. With regard to the requirement of belonging to a political party in order to be a candidate in elections, he pointed out that the restriction was not unreasonable in a country where it was extremely easy to found a party, even quite a small one, and recalled that there had been close on 10 candidates in the last presidential election. Since Brazil needed strong political parties rather than small groups whose concern was to defend disparate interests, the organization of political parties had to be strengthened.

15. The question of nationality and the criteria to be met to be elected as President or Vice-President had been raised. That was one of the few cases in which the candidate had to be a native Brazilian, and not merely born in Brazil, where _jus sanguinis_ and _jus solis_ co-existed. Naturalization was an easy formality and naturalized Brazilians were excluded only from a small number of posts, for example, in the army and the diplomatic service.

16. He had been asked for an explanation of the meaning of the constitutional provision which gave respect for human rights a predominant role in foreign affairs. That provision expressed Brazil's desire to contribute to the improvement of the human rights situation throughout the world.

17. The idea of taking preferential measures on behalf of blacks and indigenous people was worth considering.

18. Referring to the favourable image which needed to be given to blacks and the indigenous populations, he said that there was one television channel which promoted their education and that contacts had already been established with the private media with a view to their participation in that effort.

19. Concern had been expressed about the fact that employers were requesting their female employees to have themselves sterilized. It was true that some employers had done so, but that had never been a concerted policy and the ILO was no longer receiving complaints in that regard.

20. In reply to a comment made that morning, he said that the table of the different races to be included in Brazil's next report would give a breakdown of the indigenous populations.

21. The question of the Quilombos, the descendants of runaway black slaves who had survived in isolated regions, would gradually be settled by means of the land grants for which the Constitution provided, with the deeds of ownership. Isolated though they were, the Quilombos had some links with society and should be able to work in cooperatives.

22. Mr. SHERIFIS, noting that, unlike other countries, Brazil did not hesitate to use the word "Negroes", asked - although he did not advocate the practice - whether Brazil had a system of quotas which allowed the non-white population to take part in the country's political life in proportion to their numerical representation in the population. He pointed out that paragraph 99 of the report stated that, in order to be eligible, a person must be literate and have minimum qualifications. That provision was not in keeping with paragraph 5 (d) of the Convention and, although he admitted that Government employees and members of Parliament should have some education, he would like to know exactly what Brazil meant by "minimum qualifications".

23. Mr. ABOUL-NASR, referring to the question of land ownership, which was very important to the Committee, asked for details about the lands "dedicated" to the indigenous population. He was surprised that the land had not been given to them, since they had been the first to occupy it and he would like to know how they lived and what they had the right to do on that land. In his opinion, if they were the owners, they would probably not be attacked so often and it would therefore be unnecessary to spend large amounts of money to protect them.

24. He would also like to have details on what was meant by the term "non-emancipated indigenous person" and by what authority emancipation had been defined.

25. Mr. VERGNE SABOIA (Brazil), replying to Mr. Sherifis, said that, in Brazil, the term "Negro" was not pejorative. There was no system of ethnic quotas in public office or in Parliament, but only affirmative action to establish objectives for particular groups. The literacy level required for election to office was very low, since a person needed only to be able to read and write.

26. Referring to Mr. Aboul-Nasr's question, he said that the rights of indigenous people over their traditional lands were recognized, but to give them the right to sell their land or to dispose of it in any other way would be contrary to their interests because they were likely to be exploited. Indigenous peoples could obtain benefits from their land (logging, for example). Nothing could be done without the authorization of the National Indian Foundation (FUNAI) and without their own consent. The apparent

restriction on the rights of ownership of indigenous persons was thus a form of protection. Similarly, the term "non-emancipated indigenous persons" referred to their relative inability to perform certain acts; for example, although indigenous persons could go before the courts and assert their rights, they still had to be helped. That, too, was a form of protection.

27. The Brazilian delegation withdrew.

Eight periodic report of the Republic of Korea (CERD/C/258/Add.2; list of foreign nationals residing in the Republic of Korea (document without a symbol, distributed in the meeting in English only))

28. At the invitation of the Chairman, the members of the delegation of the Republic of Korea took places at the Committee table.

29. Mr. Joon-Hee LEE (Republic of Korea), introducing his country's report (CERD/258/Add.2), assured the Committee that all comments made by its members on the report would be carefully examined by the Korean authorities for reflection in policies for the promotion and protection of human rights in Korea.

30. The questions raised during the consideration of the seventh report in 1993 and the Committee's concluding observations had been given due attention in the preparation of the eighth report. According to Korean law, the Convention was directly applicable in the Republic of Korea on the same footing as Korean domestic law, although that did not exclude the possibility of the adoption of further legislative measures in future for the effective implementation of the Convention. Since the Republic of Korea was ethnically homogeneous, the question of racial discrimination had never been an issue. For that reason, article 11 (1) of the Constitution did not contain any specific reference to racial discrimination when it prohibited discrimination on the grounds of sex, religion and social status. It was accepted, however, that the list was not exhaustive and that, under that article of the Constitution, racial discrimination was strictly prohibited in the Republic of Korea. In paragraph 11 of the report, the number of foreign nationals residing in the Republic of Korea was given in table form. The table distributed to the members of the Committee, entitled "Foreign nationals residing in the Republic of Korea", was an updated version and gave a breakdown of the category of "Other nationals" contained in the table in paragraph 11.

31. With regard to article 4, the report maintained the position of the Republic of Korea that existing constitutional safeguards and domestic legislation were sufficient for its full implementation. If the situation should so require in the future, the adoption of additional legislation might be envisaged.

32. In 1993, the Committee had stressed the importance of providing human rights training and education to law enforcement officials. In order to take account of the comment, during 1995 alone, 900 human rights awareness sessions had been organized and attended by over 30,000 judicial officers and police. As from 1997, the syllabus of the Judicial Research and Training Institute

would include a two-year course on international human rights law. The Ministry of Justice published and distributed reference material in Korean on the international human rights conventions.

33. In order to contribute to the effective implementation of the Convention, the Government was considering establishing an independent national human rights commission. It had commissioned a study of the national institutions of other countries, particularly from the point of view of practical procedures (mandate, budget, personnel, facilities and management). The Government had decided, in principle, to recognize the Committee's competence under article 14 and the necessary measures would be taken in the near future.

34. Measures had been taken on behalf of foreign workers in Korea to ensure the timely payment of wages, the safe remittance of money to home countries, compensation in the event of accident and protection against mistreatment. Undocumented foreign workers also received compensation in the event of accident and legal protection. Persons living in certain provinces were not subject to discrimination in terms of education, medical care or employment opportunities; any apparent differences were merely due to the specific characteristics of various provinces and cities. There had never been any institutional discrimination against persons of mixed parentage, although it could not be denied that they had suffered from some degree of prejudice in the past, but that was less and less the case.

35. An ongoing campaign known as "segyewha" or "globalization" was intended to bring the Republic of Korea up to international standards in many areas, particularly that of human rights. The "segyewha" policy was based on a sense of community with mankind and responsibility with regard to major world problems, such as human rights, the environment, refugees, poverty and global security. In the three years since the inauguration of the civilian Government in February 1993, there had been positive developments in the human rights situation. The new Government had demonstrated a firm will to improve the situation by bringing Korea's legal and institutional apparatus into line with international human rights standards.

36. There was room for improvement, as in any other country. However, the Republic of Korea hoped that the comments and contributions made by the Committee would help it ensure greater respect for human rights and establish itself as a responsible member of the international community.

37. Mr. DIACONU (Country Rapporteur) said that the State party was to be commended on its readiness to engage in dialogue and on the regular submission of its reports.

38. He was disappointed that there were no constitutional or legislative provisions to prohibit discrimination on grounds of race, colour or national or ethnic origin. Article 37 (1) of the Constitution was not adequate in terms of the obligations laid down by the Convention. In 1993, it had been recommended that the State party should remedy that omission. He asked whether the Government had reconsidered the situation and whether it intended to take the necessary measures. It was also not enough to state (art. 6 (1) of the Constitution) that the Convention had the same legal validity as

domestic laws. He asked what would happen in practice in the event of conflict between domestic law - or its interpretation - and a provision of the Convention and whether a law enacted subsequent to the Convention could constitute an exception from one of its provisions.

39. With reference to the implementation of article 2 of the Convention, paragraph 14 of the report stated that "existing laws and practices are sufficient for a complete implementation of the Convention". He asked what practices were referred to, whether a judicial or administrative practice existed for the implementation of the Convention, and whether the Government of the Republic of Korea was intending to adopt legal provisions to meet the requirements of article 4 in the near future. With regard to the implementation of article 5 of the Convention, the State party should have described the measures it had taken in all the areas referred to in order to ensure equality of rights without distinction as to race, colour, or national or ethnic origin. Paragraph 23 of the report stated that the Government was taking measures of that nature, but the only measure actually quoted (para. 24) was in a labour context. He asked what the situation was in respect of economic, social, civil or other rights.

40. Impressive numbers of remedies were available in the case of the infringement of rights by government agencies (para. 26). He asked whether there had been cases in which such remedies had been used for infringements of provisions of the Convention. A number of schools for foreigners existed in the Republic of Korea (para. 30), and that in itself was a good thing. He asked whether they were public or private schools, whether the State contributed to their financing or whether they were financed exclusively by the respective communities, what the languages of instruction were and how many schools also provided secondary education. It might also be noted that the number of schools for foreigners had decreased slightly to 56 in 1995 compared with 58 in 1992, although, in the interim, the number of foreigners had nearly tripled from 51,000 to 133,000. He asked how the phenomenon was to be explained, whether the number of schools was sufficient and whether there were schools for all of the categories of foreigners mentioned in the list circulated at the start of the meeting.

41. As far as migrant workers were concerned, the report contained only one reference to foreign "trainees" employed in industry. However, according to Korean non-governmental organizations, there were allegedly more than 160,000 foreign workers in the Republic of Korea, of whom only 8,000 had their papers in order, 52,000 were in Korea for technical study programmes and more than 100,000 were illegal. Only trainees recruited by medium-sized enterprises benefited from the protection given by the Government, while those recruited by large companies investing abroad had no protection at all. The information contained references to low wages, unduly long working days - 12 to 16 hours - and other infringements of the rights of those workers by their employers. The Government should take steps to ensure that there was no discrimination between different categories of foreigners and between foreigners and Korean nationals in employment and related areas. As full an explanation as possible should be provided. Lastly, he noted with satisfaction that the Government of the Republic of Korea intended to follow up the Committee's recommendations to the full and that it also intended to make the declaration referred to in article 14 of the Convention.

42. Mr. GARVALOV said that he also found the recent initiatives taken by the Government of the Republic of Korea encouraging. Like Mr. Diaconu, he stressed that the general provisions ensuring the equality of all citizens contained in the Constitution did not exempt States parties from the obligation of taking the special and concrete measures provided for in article 2 (2) of the Convention.

43. With regard to foreigners residing in the Republic of Korea, the table which had been circulated at the start of the meeting and which usefully supplemented the table contained in paragraph 31 of the report seemed to group the citizens of the different countries listed (United States, China (Taipei), People's Republic of China, Japan, etc.), but he was inclined to think that, for the Japanese and Chinese, that was not the case. Many of them had been born in the Republic of Korea, of parents and grandparents who themselves had been born there, but they were placed in a different category and treated as foreigners because they were not citizens of the Republic of Korea. Citizenship was governed by jus sanguinis and only those who could prove their Korean family origins were entitled to it. Persons of Chinese or Japanese stock could not provide such proof and a priori therefore suffered from ethnic discrimination.

44. Noting that the measures referred to in paragraph 23 of the report were probably administrative, he asked what legal and judicial measures had been taken by the State party to combat racial discrimination. Paragraph 26 (iv) once again referred to the fundamental rights of citizens, a concept which excluded all persons who were not of Korean origin, but had been born in Korea and had been living there for several generations. Such a distinction between citizens and non-citizens was undeniably discriminatory.

45. Mr. de GOUTTES noted with satisfaction that the introductory statement by the delegation of the Republic of Korea contained new and extremely interesting information which did not appear in the State party's periodic report. It referred to a plan to set up a human rights commission, the Government's intention to make the declaration provided for in article 14 of the Convention and new texts which could be adopted to prohibit racist acts if the situation so required. There were still some shortcomings, however. Racial discrimination was not explicitly prohibited in the Constitution or in article 5 of the Labour Standards Act. The assertion that the Constitution, legislation and practice in force "are sufficient for a complete implementation of article 4 of the Convention" (para. 19 of the report) was not enough to satisfy the Committee. The fact that the Republic of Korea was demographically homogeneous did not exempt it from taking certain measures. Even in a country where racism did not exist, criminal legislation played an important preventive and educational role.

46. Recalling that a question raised by the Committee in 1993 on the subject of discrimination against, inter alia, the children of foreign workers and persons living in regions other than the south-east of the Republic of Korea had still not been answered, he said he hoped that the State party would provide the Committee with details in that regard.

47. Mr. CHIGOVERA, referring to the question whether article 11 (1) of the Constitution, as quoted in paragraph 6 of the report, was in keeping with the principles of the Convention, noted that paragraph 7 of the report gave the impression that article 37 (1) of the Constitution filled the gaps in that article, whereas it merely stated that "Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution". (para. 7). It thus did not offer any explicit guarantee.

48. Paragraphs 8 and 9 of the report indicated that, under the Constitution, "the Convention on the Elimination of All Forms of Racial Discrimination has become part of domestic laws". It should, however, be recalled that the Convention did not apply automatically and that States parties had to take steps to implement its provisions and ensure that they could be invoked directly in the courts.

49. He noted that paragraph 19 of the report reproduced almost word for word the comments which had already been made in the previous report and that the Committee had already pointed out that the State party had not supplied information on the effective implementation of the Convention, regretted in particular the lack of criminal law measures to prohibit racial discrimination. He also noted that the delegation of the Republic of Korea had replied at the time that the State party would take such measures if cases of racial discrimination arose. It should be remembered that the Convention's main focus was preventive. Anti-discrimination measures were important, but they could not replace prevention. It might therefore be asked whether the State party's current position was in keeping with the spirit of the Convention.

50. Mr. ABOUL-NASR said that he could not agree with the representative of the Republic of Korea that racial discrimination had never existed in his country, since Koreans had been its victims not long previously during their country's occupation by Japan. Even if the Republic of Korea was an ethnically homogenous country, it was homogenous where religion was concerned because there were followers of Confucianism and Christians, in addition to Buddhists.

51. He noted with satisfaction in its statement that the delegation of the Republic of Korea had rectified the comments on article 4 of the Convention contained in paragraph 19 of the report and had indicated that the State party was planning to adopt criminal laws to punish racial discrimination.

52. Noting that ethnically, the Chinese formed a single group, he said that the distinctions between members of that group made in the report, which referred to Chinese from Taipei, were unacceptable.

53. Mr. SHAHI recalled that, in paragraph 23 of the seventh periodic report, the State party had announced that it was about to make the declaration provided for in article 14 of the Convention. The eighth periodic report contained no mention of the matter. In its introductory statement, however, the delegation of the Republic of Korea had reaffirmed that the State party intended to make the declaration. He therefore hoped that the Committee would receive good news in that regard in the very near future.

54. Mr. Joon-Hee LEE (Republic of Korea) said that his delegation would prefer to answer the Committee's questions at the following meeting.

55. The delegation of the Republic of Korea withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

Meeting with the High Commissioner for Human Rights

56. The CHAIRMAN suggested that, since Mr. de Gouttes had wished to know, prior to his meeting with the United Nations High Commissioner for Human Rights, whether the members of the Committee had other matters to raise with him, the draft resolution on Burundi should be discussed at that meeting. The members of the Committee would note that, the more the Committee directed its efforts towards prevention, the more it needed information on the work of other United Nations bodies. The current restrictions on documentation were an obstacle to meeting that need. That was perhaps another issue which should be discussed with the High Commissioner.

57. Mr. RECHETOV said that Mr. de Gouttes should be given an opportunity to discuss any matter with the High Commissioner for Human Rights that he considered to be important. If the Committee adopted that practice, it should grant the same measure of freedom to the various members of the Committee responsible for liaison with other bodies. However, if the aim was to make a statement to the High Commissioner on behalf of the entire Committee, especially with regard to administrative and financial issues, the approach should be different.

58. Mr. WOLFRUM said that, during his morning meeting with the High Commissioner, he had discussed the Secretary-General's report on the restructuring of the Centre for Human Rights (A/C.5/50/71). He was extremely sorry that the Committee had learned its fate only when it had read that document. A new branch responsible for racial discrimination had been set up. Communications would henceforth be the responsibility of the Support Services Branch, and that was surprising to say the least. The Chairman of the Committee should at least have been informed before such a decision was taken. Even though it could not change any of the decisions which had been taken, the Committee should consider the report carefully and give its point of view.

59. Mr. GARVALOV said that the Committee should avoid giving instructions to its members who were responsible for liaison with other United Nations bodies, since it might not be able to agree on the content of those instructions.

60. He did not endorse the High Commissioner's narrow view of his own mandate. A conventional approach could not be adopted when massacres and genocide were taking place, and the Committee should make that clear to the High Commissioner.

61. Mr. de GOUTTES said he agreed with the Chairman that the Committee had to have access to as much information as possible. He would therefore be sure to inform the High Commissioner that the current documentation problems were preventing the Committee from doing its work properly.

62. He did not need instructions on Burundi. He only wished to know whether the Committee had other points to raise to the High Commissioner. With regard to the role which the Committee should play in the context of the crisis in Burundi, he anticipated two phases: a preliminary information phase and an operational phase. As to the first, the dialogue with Mr. Ayalo Lasso had partially met the Committee's information needs. For the operational phase, however, the Committee would have to determine what its specific contribution should be to United Nations action in Burundi. He recalled that the Committee had proposed its services for the human rights training of all law enforcement officials (magistrates, police, military personnel, etc.) and had offered assistance for the legislative reform and reconstruction of the State.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING PROCEDURES (agenda item 4) (continued)

Situation in Burundi

63. Mr. WOLFRUM, introducing the draft decision on Burundi (CERD/C/49/Misc.2/Rev.1, distributed at the meeting in English only), drew attention to several amendments. In the fourth preambular paragraph, the reference to respect for the Burundi Constitution had been deleted. The beginning of operative paragraph 1 had been reworded to include the idea that the Burundi parties should respect the Constitution. In paragraph 4, reference would also be made to cooperation with the High Commissioner for Human Rights, while paragraph 5 would refer to the repatriation of both refugees and of displaced persons. In paragraph 7, the reference to leaders would be replaced by a reference to the parties. The end of paragraph 9 might also be amended in order to refer to financial and logistical support from the member countries of the European Union, for example.

64. He hoped that the Committee would be able to adopt the draft decision, whose wording reflected the Security Council's statements on Burundi and the joint communiqué of the second Arusha Regional Summit on Burundi, held on 31 July.

65. Mr. ABOUL-NASR said that he did not clearly understand why the third preambular paragraph referred to serious violations of the Convention, since the Committee's mandate was to combat all violations, whatever their degree.

66. Mr. van BOVEN and Mr. DIACONU drew attention to the fact that, in accordance with its mandate, the Committee could initiate an urgent procedure to prevent serious violations of the Convention.

67. Mr. de GOUTTES, referring to the concern of some members that the draft decision was too political, said that, in order to emphasize the idea of emergency prevention, a paragraph should be inserted in the operative part to read:

> "Recalls its offers of expertise and assistance for human rights training for law enforcement officials for legislative reforms and for the reconstruction of the State."

68. Mr. ABOUL NASR said that the text proposed by Mr. de Gouttes should be placed at the end of the preamble, where the word "Recalls" would be replaced by the word "Recalling".

69. With regard to paragraph 3, he wondered whether, by calling on the Burundi parties and not the Government to investigate the massacres, the Committee was not to some extent giving all parties the right to investigate and to punish.

70. Mr. CHIGOVERA said that the text of paragraph 3 was completely unrealistic. It had been stated at the Arusha Regional Summit that Burundi did not have a legitimate Government, but only parties in conflict to which no serious suggestion of undertaking investigations could be made. It was difficult to understand how the Committee could at one and the same time recommend national dialogue in paragraph 1 and call for punishment in paragraph 3. It was already known how such suggestions had been interpreted in the cases of Rwanda and Burundi.

71. Mr. WOLFRUM said that there was no contradiction between national reconciliation and the punishment of the perpetrators of crimes; in the case of Burundi, it was unthinkable that no mention should be made of the massacres in the hope of a reconciliation. An identical problem had arisen in his own country, Germany. Efforts should therefore be made to come up with a compromise text, without concealing that aspect.

72. Mr. de GOUTTES said that Mr. Aboul-Nasr had been right to say that it would be difficult to ask all the Burundi parties to prosecute the perpetrators of the crimes. However, since the Committee could not ignore the question of prosecution, the text should perhaps be amended so as to request the judicial authorities to conduct the investigations. The approach was neutral and would also make it possible to stress the need to strengthen and protect justice in Burundi, which, as everyone knew, was in a deplorable situation.

73. Mr. ABOUL-NASR said that, even in a concern for national reconciliation, massacres such as those being perpetrated in Burundi could not be left unpunished. That part of the draft decision was all the more important in that it reflected article 4 of the Convention, which made racial discrimination punishable by law and whose provisions were binding.

74. Mr. CHIGOVERA said that, in the case of countries such as Burundi and Rwanda, the context of the African continent must be taken into account and solutions that were valid for other countries in other contexts should be avoided. The Committee had a choice between reconciliation and punishment. If, as Mr. Aboul-Nasr had pointed out, there was a close link between operative paragraph 3 and article 4 of the Convention, the wording should be amended, since the international community was not a party to the Convention.

75. Mr. ABOUL-NASR said that operative paragraph 4, which dealt with the problem of refugees, should also refer to neighbouring countries.

76. The CHAIRMAN suggested that paragraph 5 might be combined with paragraph 9 since both dealt with the problem of support.

77. Mr. SHAHI said that the two paragraphs should remain separate. One related to assistance by the international community for refugees and displaced persons, while the other referred to financial and logistical support by the United Nations.

78. Mr. ABOUL-NASR said that he would like paragraph 7 to refer not only to peace and stability, but also to justice.

79. Mr. SHAHI, referring to paragraph 8, said that the documents prepared by the Secretary-General and the statements made at the two Arusha Regional Summits referred to the dispatch of a multinational force as a last resort to prevent further genocide.

80. Mr. ABOUL-NASR said that he was not sure whether reference should be made to the dispatch of an international or multinational peace force or to the observers to whom the High Commissioner for Human Rights had referred at the preceding meeting and who were still in the country.

81. The CHAIRMAN said that the members of the Committee who had further comments to make on the draft decision should give them directly to Mr. Wolfrum.

The meeting rose at 6 p.m.